

*U.S. Patent Application No. 09/893,910, Examiner Quynh Nguyen  
Request for Reconsideration In Response to the July 14, 2006 Office Action*

the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8<sup>th</sup> Edition) (hereinafter "M.P.E.P."). As the Assignee shows, however, the combination of *Ginsberg* and/or *Greenberg* again wholly fails to teach, describe, and/or suggest the claimed subject matter. The Assignee, then, respectfully requests allowance of claims 4-5 and 36.

In regards to dependent claims 4-5 and 36, the USPTO relies on the teaching of *Ginsberg* (U.S. patent No. 6,064,730) in combination with *Greenberg*. See, Office Action, p. 4. However, the USPTO's rejection itself obviates or otherwise precludes application of *Ginsberg* to the claimed subject matter. That is, *Ginsberg* is not applied to the 103 rejection of claim 4, of claim 5, or of claim 36. Rather, the USPTO makes reference to *Lund* and *Greenberg* in regards to the rejection of claim 4; however, the passage directed at claim 4 is incomplete and does not explain motivation to combine these references. *Id.*, p. 5 (stating that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of *Greenberg* into the teachings of *Lund* for the purpose of saving computer system resource " and the sentence is not completed or otherwise concluded). Assignee respectfully requests clarification regarding the rejections of claims 4, 5, and 36, and more particularly to claim 4.

For these reasons and others, *Lund* and the combination of *Ginsberg* and *Greenberg* do not disclose, teach, and/or otherwise suggest the claimed subject matter of claims 1-36, and Assignee respectfully requests the USPTO to remove the rejections of claims 1-36. The Assignee, then, respectfully requests allowance of these claims.

### CONCLUSION

In regards to claims 1-36, Assignee respectfully asserts that the USPTO fails to satisfy MPEP §§ 2131 and 2143. The USPTO fails to suggest, identify, and/or otherwise explain that 1) *each and every element is taught by Lund and/or that 2) all the claimed limitations are taught or suggested by Ginsberg and/or Greenberg.. See Verdegaa Bros. v. Union Oil Co. of California,*

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814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* MPEP §§ 2131 and 2143. These rejections, then, are improper and must be withdrawn. *See also*, MPEP § 706.02. Furthermore, maintaining these rejections is a violation of due process. If the Office wishes to factually support this rejection, then another office action is required. This other office action must follow the requirements of MPEP §§ 2131 and 2143. Further, this other office action also cannot maintain the rejection — this other office action may ONLY properly present the reasons for the rejection. Further, once the Office properly follows MPEP §§ 2131 and 2143 and properly supports a rejection, the Assignee must be given another opportunity to rebut the rejection. Any other action is a violation of due process.

In conclusion, all of the rejections have been overcome. Further, the cited art fails to teach, disclose, and/or suggest claims 1-36. Because the cited art fails to teach or suggest the claimed invention, these claims would not have been anticipated nor would they have been obviated to one of ordinary skill in the art. The Assignee, then, respectfully asks Examiner Nguyen to remove the rejections and to allow the pending claims (1-36).

**PETITION FOR THREE MONTH EXTENSION OF TIME  
& AUTHORIZATION FOR PAYMENT OF FEES**

Assignee respectfully requests herein an additional three month extension of time to respond to the Office Action mailed July 14, 2006. Payment of the requisite fee for the three month extension of time to respond, i.e., until January 14, 2007 is authorized hereinbelow.

Description of Fee	Amount
Three Month Extension of Time Fee	\$1020.00
<b>Total</b>	<b>\$10200.00</b>

The Assignee, therefore, includes a Credit Card Payment Form PTO-2038 for \$1020.00. If there are any other fees due in connection with the filing of this response, please charge the fees to the credit card on file. If a fee is required for an extension of time under 37 C.F.R. 1.136

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not accounted for above, such an extension is requested and the fee should also be charged to the credit card on file.

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If the Office determines that anything further is desirable to place this application in even better form for allowance or if the Office would like to discuss anything further, then the Office is invited to contact the undersigned at (757) 253-5729, (757)-784-1978, or [bambi@wzpatents.com](mailto:bambi@wzpatents.com).

Respectfully submitted,



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Date: JANUARY 12, 2007